

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of)
Steven J. Wygant) Group: 3641
Serial No.: 10/789,078)
Filed: February 27, 2004) Examiner: T. Chambers
Title: PNEUMATIC SHOOTING DEVICE)

REPLY BRIEF OF APPELLANT

Box Appeal Brief- Patents
Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

Responsive to the Examiner's Reply dated December 19, 2006, Appellant submits the following Reply Brief.

STATUS OF CLAIMS

Pending: 1-15, 17, 18 and 20-22.

Canceled: 16, 19 and 23.

Allowed: None.

Objected To: None.

Rejected: 1-15, 17, 18 and 20-22.

Withdrawn from Consideration: None.

On Appeal: 1-15, 17, 18 and 20-22.

A clean copy of claims 1-15, 17, 18 and 20-22, all the claims under appeal, is included as an Appendix to the Appeal Brief.

GROUND OF REJECTION

1. Whether claims 1-5, 7-9, 12-14, 17, 18 and 20-22 are anticipated under 35 U.S.C. § 102(b) over U.S. Patent No. 5,769,066 (Schneider).
2. Whether claim 6 is unpatentable under 35 U.S.C. § 103(a) over Schneider in view of U.S. Patent Application Publication US2004/0200466 (Salva).
3. Whether claims 10, 11 and 15 are unpatentable under 35 U.S.C. § 103(a) over Schneider.

ARGUMENTS

1. Rejection of claims 1-5, 7-9, 12-14, 17, 18 and 20-22 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,769,066 (Schneider), which Appellant considers to be patentable.

In the final Office Action dated March 15, 2006 and in the Examiner's Answer dated December 19, 2006, claims 1-5, 7-9, 12-14, 17, 18 and 20-22 were rejected under 35 U.S.C. § 102(b) as being unpatentable over Schneider. However, Appellant submits that claims 1-5, 7-9, 12-14, 17, 18 and 20-22 are neither taught, disclosed nor suggested by the cited references, alone or in combination, and are therefore in condition for allowance.

A. The Teachings of the Cited References

Schneider discloses an air control housing assembly 10 (Figs. 6 and 22), which includes a housing 12 having a substantially cylindrical bore 102 (column 3, lines 20-26). A control sleeve 16 includes a cylindrical longitudinal bore 21 therethrough and radially extending evenly spaced ports 18. A stationary air piston sleeve 32 (Figs. 1, 16, 17 and 22-24) includes a cylindrical bore 37 formed therethrough and an o-ring groove 35 (column 3, line 56 through column 4, line 8). At the instant of firing (Fig. 23), air is reservoir 109, which has previously been charged with pressurized gas equal in pressure to that of a line pressure entering into inlet 104 is vented into radial vents 26 of air control spool 20, which momentarily aligns with radial vents 18 of air control spool 16, and in this position, longitudinal bore 21, which was previously sealed, receives the entire accumulated gas charge within gas reservoir 109, along with the pressurized gas available at inlet 104 from the pressurized gas source. This entire pressurized gas charge is forced against the ball projectile B1 to propel it from barrel 72 (column 5, lines 44-59).

B. Claim 1 is patentable over the cited reference.

In contrast to the teaching of Schneider, claim 1 of the present application recites in part:

an action including a housing defining a pressure reservoir with a discharge outlet connected to and approximately collinear with said barrel ...

(Emphasis added). Appellant submits that such an invention is neither taught, disclosed nor suggested by Schneider, or any of the other cited references, alone or in combination, and includes distinct advantages thereover.

Schneider discloses radial vents 26 through which the pressurized gas is discharged from air reservoir 109. The Examiner has defined a discharge outlet of a housing at page 4 in the Examiner's Answer. However, Appellant has claimed a pressure reservoir with a discharge outlet, not a discharge outlet of a housing. The discharge outlet of Schneider is defined as being a radial vent (see Schneider column 5, lines 51-53), which defines the outlet as being perpendicular to the barrel. The Examiner has defined a housing with a discharge outlet, while Appellant has claimed a discharge outlet from the pressure reservoir. The common understanding of a pressure reservoir is a chamber that stores a fluid under pressure. The discharge outlet of Schneider that is connected to the reservoir is defined as being radially aligned not collinear with the barrel. For the forgoing reasons, Schneider, and the other cited references, fail to teach, disclose or suggest an action including a housing defining a pressure reservoir with a discharge outlet approximately collinear with the barrel, as recited in Appellant's claim 1.

Claim 1 further recites:

a linear bearing body coupled with said housing, and a piston having a discharge end, said piston being slidably movable within said linear bearing body to selectively open and close said discharge outlet.

Appellant's claim has further indicated that the piston is slidable so as to selectively open and close the discharge outlet of the pressure reservoir. In Schneider the piston is slidable but the only discharge outlet that is closed or opened by the movement of the piston are radial vents 26 and not the discharge outlet of the housing indicated by the Examiner on page 4 of the Examiner's

Answer. The discharge outlet that is defined by the Examiner is neither opened nor closed by the sliding of the piston. It is only the radial vents 26, which are the discharge outlet of the pressure reservoir that are opened and closed by the moving of the piston. In contrast, Appellant's invention includes a piston that is movable to open and close the discharge outlet of the pressure reservoir that is described as being approximately collinear with the barrel. Since only radial vents are opened by the movement of the piston of Schneider, the teaching of Schneider is contrary to Appellant's invention, which claims that a discharge outlet is collinear with the barrel and that the discharge opening is opened by the movement of the piston. Therefore, Schneider, and the other cited references, fail to teach, disclose or suggest a linear bearing body coupled with the housing and a piston having a discharge end, the piston being slidably movable within the linear bearing body to selectively open and close the discharge outlet, as recited in claim 1.

An advantage of the present invention is that the discharge outlet is approximately collinear with the barrel to thereby allow a discharge of a large amount of high pressure gas quickly to propel a large projectile.

C. Claim 21 is patentable over the cited reference.

Similar to Claim 1, discussed above, Claim 21 as amended recites in part:

An action for use in a pneumatic shooting device which has a barrel, said action comprising: a housing defining a pressure reservoir with a discharge outlet configured to be approximately collinear with the barrel ...

a piston having a discharge end, said piston being slidably movable ... to selectively open and close said discharge outlet.

(Emphasis added). For all of the reasons given above with regard to Claim 1, Appellant submits that Claim 21, and Claim 22 depending therefrom, are in condition for allowance, which is hereby respectfully requested.

For all of the foregoing reasons, Appellant submits that claims 1-5, 7-9, 12-14, 17, 18 and

20-22 are in condition for allowance, which is hereby respectfully requested.

2. Rejection of claim 6 under 35 U.S.C. § 103(a) as being obvious over Schneider in view of U.S. Patent Application Publication US2004/0200466 (Salva), which the Appellant considers to be patentable.

In the final Office Action dated March 15, 2006 and in the Examiner's Answer dated December 19, 2006, claim 6 was rejected under 35 U.S.C. § 103(a) as being obvious over Schneider in view of Salva. However, Appellant respectfully submits that claim 6 depends from claim 1, which is distinguished from the prior art. Therefore, any dependent claim, including claim 6 is also distinguished from the prior art.

For all of the foregoing reasons, Appellant submits that claim 6 is in condition for allowance, which is hereby respectfully requested.

3. Rejection of claims 10, 11 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Schneider, which Appellant considers to be patentable.

In the final Office Action dated March 15, 2006 and in the Examiner's Answer dated December 19, 2006, claims 10, 11 and 15 were rejected under 35 U.S.C. § 103(a) as being obvious over Schneider. However, Appellant respectfully submits that claims 10, 11 and 15 depend from claim 1, which is distinguished from the prior art as described above. Therefore, any dependent claims, including claims 10, 11 and 15, are also distinguished from the prior art.

For all of the foregoing reasons, Appellant submits that claims 10, 11 and 15 are in condition for allowance, which is hereby respectfully requested.

Conclusion

For the foregoing reasons, Appellant submits that claims 1-5, 7-9, 12-14, 17, 18 and 20-22 are neither taught nor suggested by the cited references, alone or in combination, and claims 1-5, 7-9, 12-14, 17, 18 and 20-22 are therefore in condition for allowance in their present form. Accordingly, Appellant respectfully requests the Board to reverse the final rejections of the appealed claims.

Should any question concerning any of the foregoing arise, the Examiner is invited to telephone the undersigned at (260) 897-3400.

Respectfully submitted,

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Electronically filed February 15, 2007